

# FISCAL NOTE

**Bill #:** HB757                      **Title:** Authorize music and entertainment districts

**Primary Sponsor:** John Witt                      **Status:** As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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<b>Fiscal Summary</b>	<b>FY 2004 <u>Difference</u></b>	<b>FY 2005 <u>Difference</u></b>
<b>Expenditures:</b>		
General Fund	\$12,045	\$0
State Special Revenue - Gambling Control	\$401,972	\$397,720
 <b>Revenue:</b>		
General Fund	\$33,620,000	\$0
State Special Revenue - Gambling control	\$2,150,000	\$0
 <b>Net Impact on General Fund Balance:</b>	\$33,607,955	\$0

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|--|---|
| <input checked="" type="checkbox"/> Significant Local Gov. Impact<br><input type="checkbox"/> Included in the Executive Budget<br><input type="checkbox"/> Dedicated Revenue Form Attached | <input checked="" type="checkbox"/> Technical Concerns<br><input checked="" type="checkbox"/> Significant Long-Term Impacts<br><input checked="" type="checkbox"/> Needs to be included in HB 2 |
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## **Fiscal Analysis**

### ASSUMPTIONS:

1. This bill would authorize the creation of music and entertainment districts. All land within the district must be used for a planned unit development. Expanded gambling would be allowed in up to 10 casinos in the district, and alcoholic beverages could be served round-the-clock in the district.
2. The developer of a music and entertainment district project must pay a fee of \$150,000 to the Department of Justice to fund gambling control.
3. The developer of a music and entertainment project must pay an impact fee equal to 2.5% of the construction cost of the project. The local government that created the district would keep 20% of the impact fee and send 80% to the state. Of the state's share, \$2 million would be distributed to the Department of Justice to hire and train additional employees to regulate gambling in the district and the remainder would be deposited in the general fund.
4. One application is anticipated in fiscal 2004 for a music and entertainment district in uptown Butte. If approved, the project would begin construction in fiscal 2004 and would begin operation in fiscal 2006 or 2007. The construction cost of the project is expected to be \$1.781 billion, and the impact fee would be \$44.525 million. Butte-Silver Bow would receive \$8.905 million of the impact fee, \$2 million would go to the Department of Justice, and \$33.620 million would go to the state general fund.
5. If the anticipated project does not materialize, there will be no revenue.

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6. This bill would impose a tax of \$3 on each ticket to a performance at a live entertainment theater in a music and entertainment district. Revenue would be distributed 1/6 to the school flexibility account, 1/6 to the university system, 1/6 to DPHHS for children's health insurance and addictive disorders programs, 1/12 to all local governments in the state in proportion to population, 1/4 to the state general fund, and 1/6 to the local government where the district is located. No revenue would be collected from this tax in the 2005 biennium.
7. This bill would impose a music and entertainment district gaming tax of 3.5% of gross proceeds on gambling at casinos in a district with licenses for expanded gambling. Revenue would be distributed 17.1429% to the school flexibility account, 17.1429% to the university system, 17.1429% to DPHHS for children's health insurance and addictive disorders programs, 8.5714% to all local governments in the state in proportion to population, 25.7143% to the state general fund, and 14.28527% to the local government where the district is located. No revenue would be collected from this tax in the 2005 biennium.
8. This bill would impose a 2% surtax on accommodations inside or within 25 miles of a music and entertainment district beginning two quarters after combined collections of the music and entertainment district ticket and gaming taxes reaches \$15 million. Revenue would be distributed 10% to the school flexibility account, 10% to the university system, 10% to DPHHS for children's health insurance and addictive disorders programs, 5% to all local governments in the state in proportion to population, 15% to the state general fund, and 50% to the local government where the district is located. No revenue would be collected from this tax in the 2005 biennium.
9. This bill would make the Department of Revenue responsible for administering the new ticket tax and the surtax on accommodations and distributing the revenue from the ticket and gaming taxes and the accommodations surtax (see technical note 2). The ticket tax and gaming tax would be effective at the beginning of fiscal 2004, and the department would need to be ready to administer them, even though no collections are expected until fiscal 2006. In fiscal 2004, the department would incur costs of \$600 to create new forms and \$11,445 to modify the existing accommodations tax processing system. Once collections became significant, the department would need to hire one additional FTE to make the monthly distributions to local governments. This would require one-time expenses of \$5,450 for computer and office equipment and ongoing annual costs of approximately \$18,600.

### **Department of Justice**

10. Assume the Notice of Intent to create the district will be filed with and the \$150,000 initial fee paid to the department in July of 2003.
11. Assume the developers will apply to local government to create the district within six months of filing their notice with the department, on or before January 1, 2004.
12. Assume the department will complete the review of the application and preparation of rules within the six months provided for in this statute, and be able to issue approvals. For the purposes of this note the department assumes rules and approvals will be issued and that the developer will pay the impact fee in May of 2004. The department's share of the impact fee, \$2,000,000 will be deposited in the gambling state special revenue account at that time.
13. In order to estimate staffing levels and costs for the proposed project, the department gathered information from the State of Colorado, Gaming Control Division which oversees/regulates the historic preservation gambling districts located in Cripple Creek and Blackhawk, and Central City CO. The department used gambling device per square footage of gambling space and tables to gambling device ratios, and staffing per device and casino ratios along with other information on training and computer systems to estimate costs.
14. Based on the comparative analysis with the state of CO and representations made by developers/proponents of this bill the department estimates the area will initially support 200,000 square

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feet of gaming area. The bill requires a minimum of 30,000 square feet of gaming area for each casino. Therefore, the department assumes there will be six casinos in the initial plan.

15. To be able to regulate six, 30,000 to 40,000 square foot casinos, the department estimates it will eventually need 31 new FTE and appropriations for operating and equipment expenses for those FTE. The FTE include, four grade 17 Investigations Shift Supervisors, sixteen grade 16 Investigators, two grade 9 administrative assistants, two grade 11 licensing specialists, three grade 15 auditors, two grade 14 machine inspectors, one grade 16 training officer, and one grade 16 systems administrator. The operating and equipment expenses include the standard office package, division averages for other operating expenses; consulting fees and training expenses to provide sufficient knowledge to allow for effective regulation of the gambling contemplated by the bill; and consulting fees and computer equipment for a casino data base sufficient to provide for the tax filing and license processes contemplated by this bill; and standard division law enforcement equipment and vehicles for investigators and shift supervisors. However, considering the implementation time lines the department assumes only two positions will be filled for the last two months of FY04 or .34 FTE (One Grade 18 @ \$8,725 and one Grade 9 @ \$4,304 = \$13,029). In FY05 the division will need 2 FTE for the full year or \$78,176 (One Grade 18 @ \$52,350 and one Grade 9 @ \$25,826).
16. Operating expenses include two new employee office packages and personal computers totaling \$6,042, office expenses of \$16,151; \$56,000 for contracted services with game and process consultants; \$50,000 for computer system software consultants; \$10,000 for training on games and processes; and \$150,000 for the Notice of Intent fee to cover the cost of developing rules and conducting background investigations on several out-of-state investors in FY04 or \$288,193 (\$6,042 + \$16,151 + \$56,000 + \$50,000 + \$10,000 + \$150,000). In FY05 operating expenses are estimated at \$319,544. \$19,544 for office expenses, \$100,000 for game and process consultants and \$200,000 for computer software consultants (\$19,544 + \$100,000 + \$200,000 = \$319,544).
17. Equipment expenses are estimated to be \$100,750 (\$50,000 for computer hardware, \$15,000 for a vehicle, \$5,750 for standard law enforcement and communications equipment, \$20,000 for an electronic fingerprint scanner and \$10,000 for camera and other ID equipment) in FY04, \$0 in FY05. Note, the bulk of equipment will not be purchased until FY06 and FY07.
18. Assume the gambling state special revenue to be paid by the developers in the next biennium will be sufficient to cover additional costs.
19. It also appears that there will be significant long-term impacts on local government revenue and expenditures.

**FISCAL IMPACT:**

	FY 2004 <u>Difference</u>	FY 2005 <u>Difference</u>
FTE	.34	2.00

**Expenditures:**

Personal Services	\$13,029	\$78,176
Operating Expenses	\$300,238	\$319,544
Equipment	<u>\$100,750</u>	<u>0</u>
TOTAL	\$414,017	\$397,720

**Funding of Expenditures:**

General Fund (01)	\$12,045	
State Special Revenue (02) DOJ gambling control	<u>\$401,972</u>	<u>\$397,720</u>
TOTAL	\$414,017	\$397,720

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Revenues:

General Fund (01)	\$33,620,000	0
State Special Revenue (02) DOJ gambling control	\$2,150,000	0

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	\$33,607,955	
State Special Revenue (02) DOJ gambling control	\$1,748,028	(\$397,720)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

In fiscal 2004, Butte-Silver Bow is expected to receive impact fees of \$8.905 million. If the anticipated project is built and is successful, all local governments in the state will receive additional revenue in future biennia from the ticket tax, the gaming tax, and the accommodations surtax.

LONG-RANGE IMPACTS:

If the anticipated project is built and is successful, the state will receive additional revenue in future biennia from the ticket tax, the gaming tax, and the accommodations surtax. The Department of Revenue would incur costs of about \$16,800 each year to distribute revenue to local governments and would incur costs for ensuring taxpayer compliance with the ticket tax and the accommodations surtax. These costs would depend on the number of taxpayers and the amount of collections.

TECHNICAL NOTES:

**Department of Revenue**

1. Section 57 makes the accommodations surtax applicable two calendar quarters after the quarter when combined collections of the entertainment ticket tax and the music and entertainment district gaming tax exceed \$15 million. It is not clear whether this means collections of \$15 million in a quarter or cumulative collections of \$15 million.
2. Section 20, which imposes the new gaming tax, is to be codified as part of Title 23, Chapter 5. This makes the Department of Justice responsible for administering the tax. However, Section 20 requires the tax to be paid to the Department of Revenue. This fiscal note assumes that the Department of Revenue would collect and distribute revenue from the tax, but that all other tax administration and compliance activity would be conducted by the Department of Justice.

**Department of Justice**

3. In section 6. The bill could clearly require all parties financially interested in the Casino operation to apply for a license, be subject to the existing suitability standards and license renewal on an annual basis.
4. Section 10, line 29, sections 11 line 5 and section 12 lines 25 and 28. Reference to department should be department of revenue.
5. Section 19, lines 6 and 7. Suggest restating limits to say, no more than 10 casino permits will be issued.
6. Section 20, references to department in this section should be the department of justice, not the department of revenue. Justice currently regulates all gambling except the lottery and horse racing and collects all gambling taxes.
7. Section 20, sub (3), the reference to a section authorizing penalties and interest, 15-1-216, should be changed to the gambling statute authorizing penalties, 23-5-136.
8. Section 23. Suggest adding exceptions to the no limits; "except those provided in section 39 (space limitations) and building codes."
9. Section 27. Strike the last sentence. It suggests the machines have to be hooked to the state's central monitoring system. The state's system may not be operational at the time the casino's open.

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10. Section 28, line 6. Either strike “secured parties” or include a definition and clarify intentions. The department has never allowed secured parties to share in income or expenses of the licensee. The department also suggests that if secured parties are allowed to share in income and expense, they also be required to obtain an operator’s license and be subject to suitability requirements and license renewal.